

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CHARLES V. FARNSWORTH,

Petitioner,

v.

ANTHONY QUINN,

Respondent.

Case No. C07-5155RJB

ORDER DENYING CERTIFICATE  
OF APPEALABILITY

This matter comes before the court on Petitioner's Notice of Appeal. Dkt. 24. The Court must consider whether to grant or deny the petitioner a Certificate of Appealability. See 28 U.S.C. § 2253(c)(3). The Court has reviewed the relevant documents and the record herein.

PROCEDURAL HISTORY

On September 4, 2007, Magistrate Judge J. Kelley Arnold issued a Report and Recommendation, concluding that Petitioner's habeas claim should be denied because he was not denied a speedy trial, and because Petitioner's due process rights were not violated as a result of the state trial court's implementation of a state court rule. Dkt. 18. On September 19, 2007, Petitioner filed an Objection to the Report and Recommendation. Dkt. 19. After reviewing Petitioner's objections, this Court adopted the Report and Recommendation, and denied Petitioner's writ of habeas corpus. Dkt. 21. Petitioner has now appealed to the U.S. Court of Appeals for the Ninth

1 Circuit.

2 STANDARD FOR GRANTING A CERTIFICATE OF APPEALABILITY

3 The district court should grant an application for a Certificate of Appealability only if the  
4 petitioner makes a “substantial showing of the denial of a constitutional right.” 28 U.S.C. §  
5 2253(c)(3). To obtain a Certificate of Appealability under 28 U.S.C. § 2253(c), a habeas petitioner  
6 must make a showing that reasonable jurists could debate whether, or agree that, the petition should  
7 have been resolved in a different manner or that the issues presented were adequate to deserve  
8 encouragement to proceed further. *Slack v. McDaniel*, 120 S.Ct. 1595, 1603-04 (2000) (*quoting*  
9 *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)). When the court denies a claim on  
10 procedural grounds, the petitioner must show that jurists of reason would find it debatable whether  
11 the petition states a valid claim of the denial of a constitutional right and that jurists of reason would  
12 find it debatable whether the district court was correct in its procedural ruling. *Slack v. McDaniel*,  
13 120 S.Ct. at 1604.

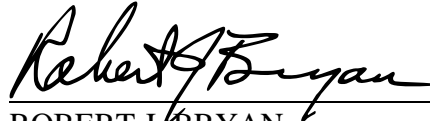
14 DISCUSSION

15 This Court denied Petitioner’s writ for habeas corpus on two grounds. Dkt. 21. First, the  
16 Court held that the Washington State Court of Appeals interpretation of Washington State Criminal  
17 Rule 3.3 (CrR 3.3) was not untenable, and did not violate Petitioner’s due process rights. The  
18 Washington State Court of Appeals held that CrR 3.3 was not ambiguous because it expressly  
19 provides that a party who fails to object to the setting of a trial date more than 60 days after  
20 arraignment waives his right to later object. Second, this Court held that the setting of Petitioner’s  
21 trial date 69 days after arraignment did not violate any clearly established federal law. There is  
22 nothing in the record that would support a conclusion that jurists of reason would find it debatable  
23 whether the petition states a valid claim of the denial of a constitutional right. There is no clearly  
24 established federal law that supports Petitioner’s claims.

1 Accordingly, it is hereby **ORDERED** that petitioner's Motion for Issuance of Certificate of  
2 Appealability for Appeal (Dkt. 24) is **DENIED**.

3 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to  
4 any party appearing *pro se* at said party's last known address.

5 DATED this 14<sup>th</sup> day of November, 2007.

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8 ROBERT J. BRYAN  
United States District Judge